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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
ALAM, UZMA

ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/825,907	ZATLOUKAL ET AL.
	Examiner	Art Unit	
	Uzma Alam	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 December 2005*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3, 5-12 and 14-30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3, 5-12 and 14-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

     Office Action Summary

DETAILED ACTION

This action is responsive to the amendment filed on December 16, 2005. Claims 1, 21

and 22 have been amended and claims 26-30 have been added. Claims 1-3, 5-12, 14-30 are

pending. The pending claims represent a method and apparatus for determining back off

intervals for the accessing resources of a server.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5, 6, 10-12, 14, 15, 20 and 21-30 are rejected under 35 U.S.C. 102(e) as

being anticipated by Liao et al. US Patent No. 6,717,915. Liao et al. teaches the invention as

claimed including calculating a back-off time delay (see abstract).

As per claims 1, 10, 20, 21, and 22, Liao teaches a method, system, apparatus and

machine accessible medium having stored therein a plurality or programming instructions for

facilitating a client comprising:

attempting by a client to access a shared resource (accessing a server from a client;

column 3, lines 32-50; column 5, lines 26-33);

detecting by the client that the shared resource is unavailable (Liao teaches checking the

network for traffic levels, if traffic levels are too high, a back off strategy is implemented,

suggesting that the resource is unavailable; column 3, lines 45-50; column 4, lines 16-32; column

5, lines 34-41);

determining a first back off interval for the client to delay before reattempting to access

the shared resource (determining a back off time; column 4, lines 19-32, lines 56-60; column 5,

lines 43-46);

successfully accessing the shared resource by the client upon expiration of the first back

off interval (column 5, lines 49-67); and

determining a second back off interval for the client to delay before reattempting to

access the shared resource after said successful access without regard to availability of the shared

resource (column 4, lines 59-67; column 6, lines 1-25, lines 64-67; column 7, lines 39-67;

column 8, lines 1-11); and

one or more processors coupled to the storage medium to execute the programming

instructions (column 3, lines 32-50)

As per claims 2 and 11, Liao teaches the method and apparatus of claims 1 and 10,

wherein said second back off interval is less in duration than said first back off interval (second

delay time is less than the first delay time; column 6, lines 19-44).

As per claims 3, 12, and 23-25, Liao teaches the method, machine accessible medium,

system, and apparatus of claims 2 and 11, further comprising:

successively determining additional back off intervals upon each successful access of the

shared resource by the client, each of said successive back off intervals being less in duration

than each previous back off interval (column 6, lines 19-44).

As per claims 4 and 13, Liao teaches the method and apparatus of claims 1 and 10,

wherein said second back off interval is determined independent of whether the shared resource

is available (column 4, line 19-32; column 8, lines 17-32).

As per claims 5 and 14, Liao teaches the method and apparatus of claims 1 and 10

wherein said attempting to access a shared resource comprises attempting to access a server

device coupled to the client (a client server configuration; column 3, lines 32-50).

As per claims 6 and 15, Liao teaches the method and apparatus of claims 1 and 10,

wherein said attempting to access a shared resource further comprises attempting to access a

shared network (column 3, lines 32-51).

As per claims 8 and 17, Liao teaches the method and apparatus of claims 6 and 15

wherein said shared network comprises a wireless network (column 3, lines 32-50).

As per claim 19, Liao teaches the apparatus of claim 10 further comprising:

a counter to determine how many unsuccessful access attempts of the shared resource

have been made by the client, wherein the counter value is not reset to zero upon the client

successfully accessing the shared resource (column 7, lines 52-67; column 8, lines 1-16).

As per claim 21, Liao teaches in a client, a method comprising:

detecting that a shared resource is unavailable (column 3, lines 45-50; column 5, lines 34-

41);

determining a first time period for the client to delay before attempting to access the

shared resource (determining a back off time; column 4, lines 19-32, lines 56-60; column 5, lines

43-46);

upon expiration of the first time period, determining a new first time period for the client

to delay before attempting to access the shared resource if the shared resource remains

unavailable (column 5, lines 49-67), and

determining a second time period for the client to delay before reattempting to access the

shared resource after the successful access of the shared resource by the client (column 4, lines

59-67; column 6, lines 1-25, lines 64-67; column 7, lines 39-67; column 8, lines 1-11).

As per claims 26, 27, 28, 29 and 30, Liao teaches the method, apparatus, medium and

system of claims 1, 10, 21, and 22 wherein the client determines the second back-off interval

based on the number of unsuccessful attempts by the client (column 6, lines 19-44).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

Claims 7-9 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Liao et al. US Patent No. 6,717,915 in view of Mattaway et al US Patent No. 6,185,184.

Mattaway teaches the invention substantially as claimed including a protocol for establishing

real-time PPP (see abstract).

As per claims 7 and 16, Liao teaches he method and apparatus of claims 6 and 15. Liao

does not disclose wherein said shared network further comprises an Ethernet network. Mattaway

teaches an Ethernet network. See column 4, lines 35-45; column 17, lines 47-65. It would have

been obvious to a person of ordinary skill in the art at the time of the invention to combine an

Ethernet network of Mattaway with the network of Liao. A person of ordinary skill in the art

would have been motivated to do this to provide a suitable transport for TCP/IP.

As per claims 9 and 18, Liao teaches the method and apparatus of claims 1 and 10. Liao

does not disclose wherein said shared resource comprises a data bus. Mattaway teaches the

shared resource comprises a data bus. See column 12, lines 62-67; column 13, lines 1-33. It

would have been obvious to a person of ordinary skill in the art at the time of the invention to

combine a data bus of Mattway with the shared resource of Liao. A person of ordinary skill in

the art would have been motivated to do this establish real-time direct links.

Response to Arguments

Applicant's argues that the disclosure in Liao US Patent No. 6,717,915 does not teach the

required operation of "determining a second back off interval for the client to delay reattempting

to access the shared resource after successfully accessing the shared resource."

Applicant is directed to column 5, lines 1-25 in the reference Liao. In this passage, the

client access the server, and trades messages with the server, and from that determines the back-

off interval for the next attempts to access the server.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this
final action.

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Uzma Alam whose telephone number is (571) 272-3995. The
examiner can normally be reached on Monday-Tuesday 5:30 AM - 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the
organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent
Application Information Retrieval (PAIR) system. Status information for published applications
may be obtained from either Private PAIR or Public PAIR. Status information for unpublished
applications is available through Private PAIR only. For more information about the PAIR
system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR
system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Uzma Alam
Ua
February 13, 2006

ARIO ETIENNE
PRIMARY EXAMINER